



harman clayton corrigan wellman  
THE CIVIL LITIGATION FIRM

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January 8, 2015

**VIA U.S. MAIL AND EMAIL**

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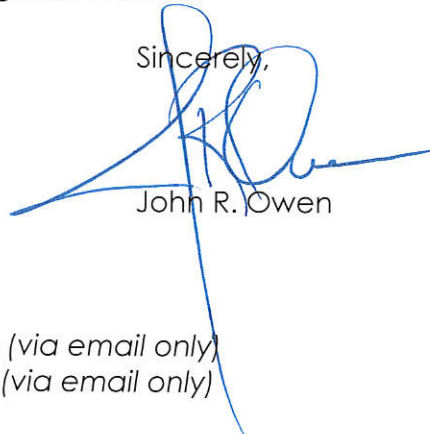
Re: Stephen E. Bilenky, Administrator of the Estate of Frank S. Wright,  
deceased v. Ryobi LTD., et al.  
U. S. District Court – Eastern District of Virginia – Norfolk Division  
Case No.: 2:13-CV-345

Dear Mr. Shapiro:

I write to provide Home Depot U.S.A., Inc.'s Second Supplemental Answers to Plaintiff's First Interrogatories and Second Supplemental Responses to Plaintiff's Requests for Production of Documents and Tangible Things and Defendants' Supplemental Privilege Log. If you should have any questions, please do not hesitate to contact me at your convenience.

With kindest personal regards, I remain

Sincerely,



John R. Owen

JRO/mec  
Enclosures  
cc: Frederick W. Bode, III, Esq. (via email only)  
Douglas M. Grimsley, Esq. (via email only)

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

STEPHEN E. BILENKY, ADMINISTRATOR  
OF THE ESTATE OF FRANK S. WRIGHT,  
DECEASED,

Plaintiff,

v.

Case No. 2:13-CV-345

RYOBI NORTH AMERICA, INC.,  
TECHTRONIC INDUSTRIES NORTH  
AMERICA, INC., ONE WORLD  
TECHNOLOGIES, INC., HOME DEPOT  
USA, INC.,

Defendants.

**HOME DEPOT U.S.A., INC.'S SECOND SUPPLEMENTAL ANSWERS TO  
PLAINTIFF'S FIRST INTERROGATORIES AND SECOND SUPPLEMENTAL  
RESPONSE TO PLAINTIFF'S FIRST REQUEST FOR PRODUCTION OF  
DOCUMENTS AND TANGIBLE THINGS**

Defendant Home Depot U.S.A., Inc. ("Home Depot U.S.A."), by counsel, states as follows for its Second Supplemental Answers to Plaintiff's First Interrogatories and Second Supplemental Response to Plaintiff's First Request for Production of Documents and Tangible Things:

**I. Preliminary Statement**

The subject lawn tractor was manufactured by Husqvarna Consumer Outdoor Products N.A., Inc. ("Husqvarna"). Husqvarna is not a party to this lawsuit. At Home Depot's request, Husqvarna, agreed to provide the following supplemental information and documents. This information and documents were discovered only recently by Husqvarna.

**V. Prior Claims**

Husqvarna is not aware of any claims involving a fire for any tractor within the subject model family, Ryobi brand tractors, Model Nos. 96016000400, 96016000401 and 96016000402.

**SUPPLEMENTAL RESPONSE**

Husqvarna recently discovered one (1) prior incident involving a fire with a Ryobi branded lawn tractor. Due to the fact that the fire consumed the identification plates, the model and serial numbers for the tractor involved in this incident are unknown. However, the lawn tractor is described as a Ryobi branded lawn tractor with 42-inch mowing deck, mechanical clutch, hydrostatic transmission, Briggs & Stratton engine and front mounted fuel tank. The incident occurred on July 26, 2010 in Jeffersonville, Indiana. The operator used the tractor on a hot day and did not let the machine cool prior to storing the machine in the garage, in close proximity to flammable debris –rags and gas cans – stored adjacent to the tractor. The fire incident resulted in property damage only. By way of further response, see the attached documents and photographs marked as Bates Labeled HDUSA 02014-HDUSA 02022 and HDUSA 02029-HDUSA 02154.

**HOME DEPOT U.S.A., INC.**

By Counsel



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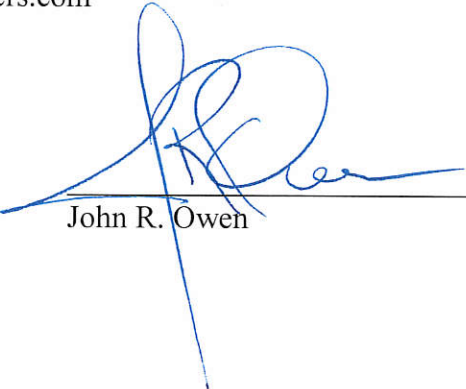
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**CERTIFICATE**

I hereby certify that a true copy of the foregoing was emailed and mailed this 8th day of January, 2015 to:

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John R. Owen

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

STEPHEN E. BILENKY, ADMINISTRATOR  
OF THE ESTATE OF FRANK S. WRIGHT,  
DECEASED,

Plaintiff,

v.

Case No. 2:13-CV-345

RYOBI NORTH AMERICA, INC.,  
TECHTRONIC INDUSTRIES NORTH  
AMERICA, INC., ONE WORLD  
TECHNOLOGIES, INC., HOME DEPOT  
USA, INC.,

Defendants.

**DEFENDANTS' SUPPLEMENTAL PRIVILEGE LOG**


Defendants Techtronic Industries North America, Inc., Ryobi Technologies, Inc., One  
World Technologies, Inc. and Home Depot U.S.A., Inc., by counsel, submit the following  
Privilege Log.

DOCUMENT DESCRIPTION	DESCRIPTION OF PRIVILEGE INFORMATION	BASIS OF PRIVILEGE	BATES NO.
Neil Wu notes dated 4/07/2014; pg. 3	Redacted information relates to discussions between defense counsel and defense experts regarding trial strategy and preparation	Fed. R.Civ.P. 26(b)(4)(C)	n/a
Neil Wu notes dated 4/30/2014; pg. 1	Redacted information relates to discussions between defense counsel and defense experts regarding trial strategy and preparation	Fed. R.Civ.P. 26(b)(4)(C)	n/a

DOCUMENT DESCRIPTION	DESCRIPTION OF PRIVILEGE INFORMATION	BASIS OF PRIVILEGE	BATES NO.
Jeffries Claim Notes 8/18/10-12/7/11 2 pages	Work product	Fed. R.Civ.P. 26(b)(3)	HDUSA 02023- HDUSA 02024
E-mail chain between Keith Degner, Engineer, Husqvarna, Marie Florek, Paralegal, Husqvarna and Wayne Hill, Director of Product Safety, Techtronic 8/17/10 2 pages	Work product	Fed. R.Civ.P. 26(b)(3)	HDUSA 02025- HDUSA 02026
Claim Detail 2 pages	Work product	Fed. R.Civ.P. 26(b)(3)	HDUSA 02027- HDUSA 02028

**HOME DEPOT U.S.A., INC., RYOBI  
TECHNOLOGIES, INC., ONE  
WORLD TECHNOLOGIES, INC.,  
AND TECHTRONIC INDUSTRIES  
NORTH AMERICA, INC.**

By Counsel



John R. Owen (VSB No. 39560)  
Julie S. Palmer (VSB No. 65800)  
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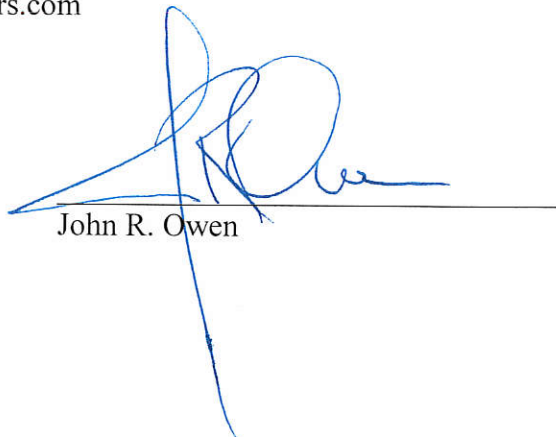
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dgrimsley@dmclaw.com

**CERTIFICATE**

I hereby certify that a true copy of the foregoing was emailed and mailed this 8<sup>th</sup> day of January, 2015 to:

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John R. Owen

**Thoughts on Jeffries: B01434**

Conducted inspection at fire site, 1215 Sandstone Dr., Jeffersonville, IN 47130. September 8, 2010 with Miranda Hewlett from Donan Engineering.

Statement from Ms. Hewlett about her conversation with the operator of the tractor and familiarity with the file:

1. She saw the site earlier, prior to cleanup. Patterns consistent with tractor being the origin of fire.
2. Operator used the tractor (daughter) that day to mow neighbors yard across the street about 15 minutes. Then parked the tractor in the garage and went into the house. Logged on to her Facebook account and 10-15 minutes later smelled something, came to the garage and was met with smoke. Called 911 but was cut off (phone wire went through area of fire), went out front to neighbors to continue the call, looked into garage and saw flames reaching to ceiling above the tractor. Door had opened.
3. Operator saw burning trail of liquid running out the garage door. Operator said gas was stored in same garage, adjacent to the machine.
4. FD responded and put out the fire. Home apparently totaled.
5. No car in the garage.
6. Tractor about 5 years old. Initially purchased a MTD machine, dissatisfied and returned for the Ryobi. Initial OM produced was apparently from the MTD.
7. Tractor purchased when father who was sick could no longer do the yard. Shortly after the purchase he passed away and the daughter continued to mow.
8. When asked about their maintenance practices there was no response, taken as no maintenance done. Do recall doing a new battery roughly a year prior to the fire.
9. Fire was around 10 AM, hot day in July, temps already near 90.
10. Garage was finished with drywall. Single story house with basement.

**My inspection:**

1. Unit is a step through LT frame, 42" mower with mechanical clutch, fender shift hydro, single Briggs engine, front tank, rear battery, ammeter.
2. Site is under cleanup. Only far left partial garage wall left standing along with the tractor in the back corner, covered with shrink wrap and plywood enclosure.
3. Partial wall shows burn pattern consistent with fire around tractor, but vinyl siding from wall is only melted, not burned all the way down.
4. Full basement except for under garage, all clean. Dumpster in place.
5. Small lot, ¼ acre at most for yard. Some slope in rear and front.
6. Studs, copper, wiring being salvaged from old home.
7. Evidence tag labeled from Donan Engineering. MH, dated 7-30-10.
8. Unit is badly burned, most consumables gone, aluminum also melted.
  - a. Small tire patches remain, very little on the front, slightly larger on the rear.
  - b. Under the aluminum puddle on the floor is evidence of the front fuel tank plastic.

- c. Underside of hood still has much of the paint intact, closed at time of fire
  - d. White material, like paint, only on left side inside of hood
  - e. Damage worse to the right of the vehicle on the mower
  - f. Front engine area and steering equal burn damage, consistent with patterns on wood below machine.
9. Unit also crushed due to external loads: (Miranda commented the back wall fell into garage on top of unit. Wall studs in front of machine were burned off.)
- a. Seat bent forward, almost in half.
  - b. Left side of fender crushed.
  - c. Hood smashed both sides
  - d. Dash crushed forward and down, significantly
  - e. Transaxle mounting brackets bent
10. Controls:
- a. Hydro bypass disengaged.
  - b. Throttle in low speed
  - c. Mower manual clutch off
  - d. Parking brake off
  - e. Hood closed (headlight bulb on muffler)
  - f. Mower lift in low cut
  - g. Hydro fender shift control in medium speed
  - h. Seat in full rear position
11. Engine:
- a. Single cylinder
  - b. Starter loose from engine
  - c. Engine melted extensively, most aluminum gone. Carb, oil filter, controls, valve cover, starter melted off engine.
  - d. Afterfire solenoid found, separated from engine
  - e. Oil filter loose, also coil
12. Muffler and shields in good condition.
- a. Muffler area full of plastics debris from engine and grille
  - b. Small amount of grass debris remaining
  - c. Wood from building
13. Mower:
- a. 42" with rear gage wheels
  - b. RH mandrel housing melted extensively
  - c. LH mandrel casting not melted at all
  - d. Discharge hardware intact and in place
  - e. Top of mower housing shows little grass debris
  - f. Piece of grass debris stuck to front of housing, right about vortex baffle which is in good condition. 4" long.
  - g. Std or bagging blades, not mulching
  - h. Underside fairly clean but for V shape between blades at rear, grass remaining

14. Electrical:

- a. Starter wire shows solenoid hardware, intact to starter
- b. No solenoid or fuse residue found
- c. Rear battery, cables both pulled out of battery hole
- d. Battery case gone but battery largely still on top of transaxle
- e. Battery cable hardware intact, appears to be OEM
- f. Battery ground wire still attached to frame
- g. Positive wire welded to frame forward of battery, no fuel source, after the fire started.

15. Fuel tank screws intact and appear tight

16. Materials under the tractor: (all retained)

- a. Roll of cooper tubing coiled up and under the vehicle, directly under muffler (30)
- b. Aluminum puddle under the engine has flowed around 3 strands of stranded wire that measured 0.116" (9 gage). Other solid strands found measured 0.100. (10 gage)
- c. Aluminum puddle with wiring shows signs of fuel tank plastic on the ground
- d. Found actual coil of this wire, insulation intact on ground side
- e. Particle board sheet under the machine
- f. Large handful of cloth found in several spots under the engine area, one appeared right on copper tubing below muffler. Weave pattern, perhaps a scarf.

17. Tractor wheelbase measured about 47"

18. Steering wheel hardware intact

19. One piece of fuel line with clamp engaged, found at front of unit on ground. Likely engine connection.

20. Board under machine shows most damage under area of engine and fuel tank.

**Report for Yata: B001434**

- a. Site was almost entirely cleaned up. So our side didn't have an opportunity to look for other fire sources or patterns. Donan Engineering did a site inspection previously.
- b. Tractor badly burned and smashed by the falling house.
- c. Loss of the house was total.
- d. Owner/operator claims they had just used the machine and about 10-15 minute later there was a fire.
- e. Was a hot morning in July, very dry.
- f. No defects found with the tractor. All electrical that could be observed looked normal. Found engine fuel line with clamp intact.
- g. Burn patterns observable show likely origin was the engine area of the tractor. Consistent with witness saying fire seen on the tractor, and also story of fire investigator in regard to remainder of the building.
- h. Some debris remaining in the mower deck, 4" of fine grass debris in lump on vortex baffle. Muffler area found to be generally clean with burn damage remains only.
- i. Tractor was parked when hot in the corner of the garage, in an area with other materials in close proximity.

- j. Most notable was a pile of burned rags directly under the engine. Also evident was a coil of copper tubing and bundle of electrical wiring, also all under the engine area of the tractor.
- k. Operator was daughter of owner, 20's, had been mowing for several years since father had taken sick and died shortly after purchasing the machine.
- l. When fire investigator asked about routine maintenance it was clear there was none provided. Had replaced a battery a year prior.
- m. Operator did not let the machine cool prior to storage. Also parked the hot machine in close or direct proximity to flammable debris (rags) that likely started the fire.
- n. Gas was also stored in cans in the area, adjacent to the machine.
- o. Deny claim. Operator error. No defect of machine.



A PROFESSIONAL CORPORATION

333 W. WACKER DRIVE SUITE 1900 CHICAGO, IL 60606 312.382.3100 312.382.8910 FAX www.cozen.com

August 12, 2010

**Marisa L. Saber**  
Direct Phone 312.382.3183  
Direct Fax 312.706.9783  
msaber@cozen.com

**VIA CERTIFIED MAIL  
VIA US MAIL**

RYOBI TECHNOLOGIES, INC.  
1428 Pearman Dairy Road  
Anderson, SC 29625

Re: Insured: Melissa Jeffries  
Date of Loss: July 27, 2010  
Loss Location: 1215 Sandstone Dr., Jeffersonville, IN  
Claim No.: 15664803  
Our File No.: 274765

To Whom This May Concern:

Please be advised that this office represents Liberty Mutual Insurance, the insurance carrier for Melissa Jeffries with respect to her home located at 1215 Sandstone Dr., Jeffersonville, Indiana. This property sustained extensive damage as the result of a fire which occurred on July 27, 2010. Preliminary investigation has suggested that the fire originated at or near a the front of detached garage at a 5 year old Ryobi riding lawn mower purchased at Home Depot, manufactured by MTD. The purchase receipt is attached. Unfortunately, due to the degree of damage and our investigator not wanting to destroy any part of the mower, we cannot further identify the make or model.

The purpose of this letter is to place you on notice of Liberty Mutual's interests in this matter, and to provide you with an opportunity to have a representative of your company and/or your company's liability insurance carrier inspect the physical evidence.

At this time, the state of the house as it was at the time of the fire. I request that you advise if there is any insurance coverage in place that would provide coverage for the loss incurred by our insured. Please consider this a notice of claim under that policy and forward this notice on to the appropriate carrier, risk manager or insurance agent. **Further, we are planning a scene examination at the insured's residence, after which the scene will be released for repairs. Please contact me to coordinate a time for the inspection before August 20, 2010. If we do**

**CONFIDENTIAL  
HDUSA 02016**

RYOBI TECHNOLOGIES, INC.

August 12, 2010

Page 2

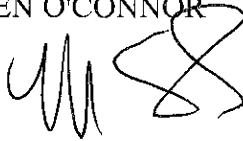
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**not hear from you regarding interest in attending this examination, we will assume you have no interest in attending and the scene will be released for repairs thereafter.**

Thank you. I look forward to hearing from you shortly.

Sincerely,

COZEN O'CONNOR

A handwritten signature in black ink, appearing to be 'MS' with a large, stylized flourish.

By: Marisa L. Saber

MLS/gh

CHICAGO\783823\1 274675.000

**CONFIDENTIAL**  
**HDUSA 02017**

## THE HOME DEPOT 2002

1000 E. HWY. 131  
CLARKSVILLE, IN 47129 (812) 282-04702002 00016 04743 10/29/05  
P. SALE 32 FJ020G 05:59 PM

425538 LAWN TRACTOR 1099.00  
 RSN: 5 NEW AMT 799.00 MDN -300.00  
 SUBTOTAL 799.00  
 SALES TAX 47.94  
 TOTAL \$846.94  
 XXXXXXXX4683 STORE CREDIT 846.94  
 CARD BALANCE 0.00  
 TA



2002 16 04743 10/29/2005 2562

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 your store visit at:

[www.HomeDepotOpinion.com](http://www.HomeDepotOpinion.com)

You will need the following to enter  
 on-line:

User ID:  
 11777 9791

Received

No. 1000

Aug. 4. 2010 8:05PM

Jeffries- B01434

# Incident Report

07/26/10 Incident Number 74

M M D D Y Y Incident Type Structure Fire

Location 74 1215 Sandstone Drive

Box Number Street Apt#

Jeffersonville IN 47130

City/Town State Zip Code

Shift 1 2 3

Standby Crew

Occupant SAO Owner Melissa Jeffries

Occupant Phone# SAO Owner Phone# 812-282-0472

Owner Address SAA

Insurance Company Liberty Mutual Agent Unknown

Address Phone # 502-425-8450

Type Construction Wood Frame Area Of Fire Origin Garage

No. of Stories 1 Story of Origin 1 Above Grade 1 Below Grade 1

Material Ignited Lawn Mower Type of Ignition Mechanical

Method of Extinguishment Water Complete Investigation Reported, If Required

Time

Alarm 10:06:00

Responding 10:08:00

Arrival 10:12:00

Controlled 11:15:00

Clr Scene 13:40:00

## Actions Taken

Fire Suppression

Overhaul

Investigation

## Casualties

	Deaths	Injuries
Fire Service	0	0
Civilian	0	0

Complete NFIRS Casualty Report

## Detectors

☒ Detector Alerted Occupants

☐ Detector Did Not Alert Occupants

☐ No Detector Present

☐ Unknown

Date & Initials Report Entered Into NFIRS

## Property Use

Residential? 1 or 2 Family / Multi

Other

Occupied? Yes / No

## Hazardous Materials Release

☒ None

☐ Natural Gas

☐ Propane

☐ Motor Oils

☐ Kerosene

☐ Household Solvents

☐ Fuels Diesel / Gasoline

☐ Paint

☐ Other

## Resources

☒ Car 110

☐ Car 111

☐ Engine 113

☒ Brush 114

☒ Engine 115

☒ Engine 116

☒ EMS

☒ Police

☒ Mutual Aid

☒ Received

☐ Given

CFD/Utica

Utica EMS

CCPD

## Narrative

1 story wood frame attached garage fully involved upon arrival. Exposures on Sides 2 and 4 were damaged by radiant heat (no fire damage). Attacked fire with hand line and established water supply. 2nd handline established as additional personnel arrived on scene. Pulled personnel from structure and went into defensive mode when fire broke through roof of main structure. Gained control and started overhaul. (Con't on page 2.)

## Personnel Responding:

Engine 115	Engine 116	Engine 113	Car 110 [101]
OIC Limon, Jr.	OIC Geary	OIC	OIC Tenney
ENG Limon, Jr.	ENG K. Sellmer	ENG	
OJSF	OJSF Patterson	OJS	Car 111 [102]
OJSR	OJSR	CJS	OIC
EJSF	EJSF	EJS	
EJSR	EJSR		Brush 114
Personnel On Station			OIC
Reed (pov)			ENG Langdon
Linker (pov)			CS
Sellmer, Jr (pov)			

Member Making Report K. Sellmer Officer-In-Charge Linker

Complete Patient Contact Report (If Required) ☐ No Patient Contact

FOR OFFICE USE ONLY

Rescued family cat and successfully resuscitated. Transported cat to Eastside Animal Hospital. Completed overhaul and turned structure over to investigator See attached investigator's report